

रजिस्टर्ड नं० पी० ६७



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, ३० नवम्बर, १९६८/६ अग्रहायण, १८६०

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-4, the 18th November, 1968

No. 1-55/68-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly,

1964, the Himachal Pradesh Transfer of Land (Regulation) Bill, 1968 (Bill No. 36 of 1968) as introduced in the Legislative Assembly on the 18th November, 1968 is hereby published in the Himachal Pradesh Government Gazette.

Bill No. 36 of 1968

**THE HIMACHAL PRADESH TRANSFER OF LAND
(REGULATION) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to regulate the transfer of land in the Union territory of Himachal Pradesh in the interest of persons belonging to the Scheduled Tribes and for matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Transfer of Land (Regulation) Act, 1968.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Commissioner" means the Commissioner appointed under the Land Revenue Act in force in Himachal Pradesh;

(b) "Co-operative Land Mortgage Bank" means a Co-operative Land Mortgage Bank registered as such under the Punjab Co-operative Land Mortgage Banks Act, 1957, as in force in the Union territory of Himachal Pradesh;

(c) "Co-operative Society" means a co-operative society registered as such under the Himachal Pradesh Co-operative Societies Act, 1956, or the Punjab Co-operative Societies Act, 1961, as in force in the territory transferred to Himachal Pradesh under the Punjab Re-organisation Act, 1966;

(d) "Deputy Commissioner" in relation to any district, means the Deputy Commissioner of that district;

(e) "Financial Commissioner" means the Financial Commissioner of Himachal Pradesh;

(f) "land" means a portion of the earth's surface, whether or not under water, and includes all things attached to, or permanently fastened to, anything attached to such portion but does not include minerals, natural gas, petroleum, timber, trees, growing crops and grass;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Scheduled Tribes" shall have the same meaning as assigned to it in clause (25) of Article 366 of the Constitution;

(i) "State Government" means the Administrator of the Union territory of Himachal Pradesh appointed under Article 239 of the Constitution.

3. (1) No person belonging to any Scheduled Tribe shall transfer his interest in any land by way of sale, mortgage, lease, gift or otherwise to any person not belonging to such tribe except with the previous permission in writing of the Deputy Commissioner:

Regulation
of transfer
of land.

Provided that nothing in this sub-section shall apply to any transfer:—

(a) by way of lease of a building on rent;

26 of 1957

13 of 1956

25 of 1961

31 of 1966

- (b) by way of mortgage, for securing loan, to any Co-operative Land Mortgage Bank or to any Co-operative Society, all or a majority of the members of which are persons belonging to any Scheduled Tribe;
- (c) by acquisition by the State Government under the Land Acquisition Act, 1894.

(2) Every transfer of interest in land made in contravention of the provisions of sub-section (1) shall be void.

Application
for permis-
sion for
transfer of
land.

4. (1) Any person belonging to any Scheduled Tribe who desires to make a transfer of his interest in any land to a person not belonging to such tribe, may make an application to the Deputy Commissioner for the grant of permission for such transfer.

(2) Every application under sub-section (1) shall be made in the prescribed form and shall contain the prescribed particulars and shall be accompanied by such fees as may be prescribed.

(3) On receipt of any such application for the grant of permission, the Deputy Commissioner may, after making such inquiry as he thinks fit, by order, either grant or refuse permission to transfer the land:

Provided that where permission is refused, the Deputy Commissioner shall record in writing the reasons for such refusal.

(4) Before granting or refusing permission under this section, the Deputy Commissioner shall have regard to the following matters, namely:—

- (a) the financial position of the applicant;
- (b) the age and physical condition of the applicant;
- (c) the purpose for which the transfer is proposed to be made; and
- (d) such other relevant matters as the Deputy Commissioner may think fit in the circumstances of the case.

Ejectment.

5. (1) If, as a result of transfer of any land in contravention of the provisions of section 3, any person, other than a person belonging to any Scheduled Tribe, is found to be in possession of that land, the Deputy Commissioner or any other officer authorised in writing by the State Government in this behalf, may, without prejudice to the provisions of section 9, serve a notice upon such person requiring him to vacate the land within ninety days from the date of service of the notice and to remove any building, fence or any other structure which may have been raised on such land:

Provided that if there are any crops actually growing on the land at the time of such requisition, such person shall be entitled to retain possession of the land until such crops are harvested.

(2) Every person to whom a requisition is made under sub-section (1) shall be bound to comply with such requisition.

Appeal.

6. (1) Any person aggrieved by an order made under section 4 or section 5 may, within thirty days from the date of communication of the order, prefer an appeal to the Commissioner;

Provided that if there be no Commissioner, such appeal shall lie to the Financial Commissioner:

Provided further that the Commissioner, or as the case may be, the Financial Commissioner, may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Commissioner or the Financial Commissioner, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

7. The order made in appeal by the Commissioner or the Financial Commissioner, as the case may be, under section 6 and, subject only to such order, the order made by the Deputy Commissioner under section 4 or section 5, shall be final.

Finality of orders.

8. No right, title or interest held by a person belonging to a Scheduled Tribe in any land shall be liable to be attached or sold in execution of any decree or order of any court except when the amount due under such decree or order is due to the State Government or to any Co-operative Land Mortgage Bank or Co-operative Society.

Right, title or interest held by persons belonging to Scheduled Tribes in land not to be attached.

9. If any person contravenes or attempts to contravene or abets the contravention of any of the provisions of section 3 or section 5, he shall be punishable with fine which may extend to two hundred rupees and, in the case of a continuing contravention, with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Penalty.

10. (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

Power to make rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the form of application for the grant of permission under section 4, the particulars it may contain, the fees which should accompany it and the manner of depositing such fees; and
- (b) any other matter which has to be, or may be, prescribed under this Act.

STATEMENT OF OBJECTS AND REASONS

With the development of the means of communication, the non-tribals are finding an easy access to the areas inhabited by the Scheduled Tribes. The inevitable result of such an influx is feared to be the unchecked and insidious exploitation of the tribals by the more advanced non-tribals, eventually mopping up and pocketing themselves whatever economic benefit the Administration is providing to the local tribal people.

Land in remote areas, which are just opening out and which are inhabited by the Scheduled Tribes is the most attractive source of exploitation and unless a restriction is imposed on the alienation of land by tribals, they are, in their still prevalent ignorance, likely to be deprived of their only source of livelihood and face hard competition in other fields such as trade which they will be hardly able to stand.

It has also been emphasized by the Scheduled Areas and Scheduled Tribes Commission, in their report for 1960-61 that the State Government should consider enacting legislative measures to prevent the alienation of land from tribals to non-tribals. It is, therefore, proposed to enact law to save the Scheduled Tribes from further exploitation and this Bill seeks to achieve the object.

SIMLA:
The 18th November, 1968.

LAL CHAND PRARTHI,
Revenue Minister.

FINANCIAL MEMORANDUM

No financial implications are involved as the implementation of the proposed law will be got done through the existing staff.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 10 of the Bill empowers the State Government to make rules for carrying out the provisions of the Bill.

Simla-4, the 18th November, 1968

No. 1-60/68-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, the following Bills as introduced in the Legislative Assembly on the 18th November, 1968 are hereby published in the Himachal Pradesh Government Gazette:—

1. The Himachal Pradesh General Clauses Bill, 1968 (Bill No. 37 of 1968).
2. The Himachal Pradesh Gift Goods (Unlawful Possession) Bill, 1968 (Bill No. 38 of 1968).
3. The Himachal Pradesh Good Conduct Prisoners (Temporary Release) Bill, 1968 (Bill No. 39 of 1968).
4. The Himachal Pradesh Vaccination Bill, 1968 (Bill No. 40 of 1968).
5. The Himachal Pradesh Prohibition of Smoking (Show Houses) Bill, 1968 (Bill No. 41 of 1968).
6. The Himachal Pradesh Urban Estates (Development and Regulation) Bill, 1968 (Bill No. 42 of 1968).

SURENDRA NATH,
Under Secretary.

Bill No. 37 of 1968

THE HIMACHAL PRADESH GENERAL CLAUSES BILL, 1968
(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to shorten the language used in Himachal Pradesh Acts and to make certain provisions for the construction of and other matters relating to such Acts.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh General Clauses Act, 1968. Preliminary

(2) It shall come into force at once.

2. In this Act and in all Himachal Pradesh Acts, unless there is anything repugnant in the subject or context,— General Definitions.

- (1) "abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code;
- (2) "act", used with reference to an offence or a civil wrong, shall include a series of acts, and words which refer to acts done extend also to illegal omissions;
- (3) "Administrator" shall mean Administrator of Himachal Pradesh;
- (4) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
- (5) "barrister" shall mean a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland;
- (6) "chapter" shall mean a chapter of the Himachal Pradesh Act, in which the word occurs;
- (7) "Collector" shall mean the chief officer-in-charge of the revenue-administration of a district and shall include a Deputy Commissioner;
- (8) "commencement" used with reference to a Himachal Pradesh Act shall mean the day on which the Act comes into force;
- (9) "Commissioner" shall mean the Commissioner (Revenue), Himachal Pradesh;
- (10) "Constitution" shall mean the Constitution of India;
- (11) "Consular Officer" shall include consul-general, consul, vice-consul, consular agent, pro-consul, and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;
- (12) "Deputy Commissioner" shall mean the chief officer-in-charge of the general administration of a District;
- (13) "District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction; but shall not include the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
- (14) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means which is intended to be used, or which may be used, for the purpose of recording that matter;
- (15) "enactment" shall include any provision contained in any Himachal Pradesh Act;
- (16) "father" in the case of any one whose personal law admits adoption shall include an adoptive father;
- (17) "Financial Commissioner" shall mean the Financial Commissioner

- of Himachal Pradesh for the time being;
- (18) "financial year" shall mean the year commencing on the first day of April;
 - (19) a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not;
 - (20) "Government" or "the Government" shall include the State Government as well as the Central Government;
 - (21) "Himachal Pradesh Act" shall mean an Act made by the Legislative Assembly of Himachal Pradesh, or an Act of any other State extended to Himachal Pradesh as it existed immediately before 1st November, 1966 by the Government of India, or an Act of an erstwhile Ruler and in force in any part of Himachal Pradesh, or a Punjab Act in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, by virtue of section 88 of the said Act; 31 of 1966
 - (22) "immovable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
 - (23) "imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code; 45 of 1860
 - (24) "Lieutenant Governor" shall mean the Lieutenant Governor of Himachal Pradesh;
 - (25) "local authority" shall mean a municipal committee, district board, zila parishad, panchayat samiti, notified area committee, gram panchayat, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;
 - (26) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force; 5 of 1898
 - (27) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship;
 - (28) "month" shall mean a month reckoned according to the British calendar;
 - (29) "movable property" shall mean property of every description except immovable property;
 - (30) "notification" shall mean a notification published under proper authority in the Official Gazette;
 - (31) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;
 - (32) "offence" shall mean any act or omission made punishable by any law for the time being in force;
 - (33) "Official Gazette" shall mean the Rajpatra of Himachal Pradesh;
 - (34) "part" shall mean a part of the Himachal Pradesh Act in which the word occurs;
 - (35) "person" shall include any company or association or body of individuals whether incorporated or not;
 - (36) "public nuisance" shall mean a public nuisance as defined in the Indian Penal Code; 45 of 1860
 - (37) "registered", used with reference to a document, shall mean registered in a State or a Union territory under the law for the time being in force for the registration of documents;
 - (38) "rule" shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule

- under any enactment;
- (39) "schedule" shall mean a schedule to Himachal Pradesh Act in which the word occurs;
- (40) "scheduled district" shall mean a "scheduled district" as defined in the Scheduled Districts Act, 1874;
- (41) "section" shall mean a section of Himachal Pradesh Act in which the word occurs;
- (42) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars;
- (43) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions;
- (44) "son", in the case of any one whose personal law permits adoption, shall include an adopted son;
- (45) "State" shall mean the Union territory of Himachal Pradesh;
- (46) "State Government" shall mean the Government of Himachal Pradesh;
- (47) "sub-section" shall mean a sub-section of the section in which the word occurs;
- (48) "swear", with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;
- (49) "vessel" shall include any ship or boat or any other description of vessel used in navigation;
- (50) "will" shall include a codicil and every writing making a voluntary posthumous disposition of property;
- (51) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and
- (52) "year" shall mean a year reckoned according to the British calendar.

14 of 1874

3. Where any Himachal Pradesh Act is not expressed to come into operation on a particular day, then—

- (a) in the case of a Himachal Pradesh Act made by the Legislative Assembly of Himachal Pradesh, it shall come into operation on the day on which the assent thereto of the President of India is first published in the Official Gazette;
- (b) in the case of a Himachal Pradesh Act which is a Punjab Act in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, by virtue of section 88 of the said Act, it shall come into force on the day on which the assent thereto of the Governor, the Governor-General, His Majesty or the President of India, as the case may be, was first published in the appropriate Official Gazette;
- (c) in the case of a Himachal Pradesh Act which is an Act passed by the erstwhile Ruler, it shall come into operation on the day on which it was first published in the appropriate Official Gazette; and
- (d) in the case of a Himachal Pradesh Act other than those mentioned in clauses (a), (b) and (c) of this section, it shall come into operation on the day on which the notification of the Government of India in regard to its extension is first published in the Gazette of India;

Coming into operation of enactments.

31 of 1966

and in every such Act the date of the first publication thereto shall be printed either above or below the title of the Act and shall form part of every such Act.

Effect of re-
peal.

4. Where this Act or any Himachal Pradesh Act repeals any enactment then, unless a different intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act had not been passed.

Repeal of
Act making
textual
amendment
in Act.

5. Where any Himachal Pradesh Act made after the commencement of this Act repeals any amendment by which the text of any Himachal Pradesh Act was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.

Revival of
repealed
enactments.

6. In any Himachal Pradesh Act it shall be necessary, for the purpose of reviving either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

Construc-
tion of ref-
erences to
repealed
enactments.

7. Where this Act or any other Himachal Pradesh Act repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commence-
ment and
termination
of time.

8. In any Himachal Pradesh Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from" and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

Computation
of time.

9. Where, by any Himachal Pradesh Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act, or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Limitation Act, 1963, applies.

Measure-
ment of
distances.

10. In the measurement of any distance, for the purposes of any Himachal Pradesh Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to
be taken
prorata in
enactments.

11. Where, by any enactment now in force or hereafter put in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods of merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and
number.

12. In all Himachal Pradesh Acts, unless there is anything repugnant in the subject or context,—

- (1) words importing the masculine gender shall be taken to include females; and
- (2) words in the singular shall include the plural and *vice versa*.

POWERS AND FUNCTIONARIES

13. Where, by any Himachal Pradesh Act, any power is conferred, then that power may be exercised from time to time as occasion requires.

Powers conferred on the State Government to be exercisable from time to time.

14. Where, by any Himachal Pradesh Act, any power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment may be made either by name or by virtue of office.

Power to appoint to include power to appoint *ex-officio*.

15. Where, by any Himachal Pradesh Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or any other authority by it in exercise of that power.

Power to appoint to include power to suspend or dismiss.

16. In any Himachal Pradesh Act, it shall be sufficient for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

Substitution of functionaries.

17. In any Himachal Pradesh Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations.

Successors.

18. In any Himachal Pradesh Act, it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

Official chiefs and subordinates.

PROVISIONS AS TO ORDERS, RULES, ETC., MADE UNDER ENACTMENTS

19. Where, by any Himachal Pradesh Act, a power to issue any notification, order, scheme, rule, form, or bye-law is conferred, then expressions used in the notification, order, scheme, rule, form or bye-law, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Construction of orders, etc. issued under enactments.

20. Where, by any Himachal Pradesh Act, a power to issue notifications or make orders, rules, or bye-laws is conferred, then that power includes a power exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules, or bye-laws so issued or made.

Power to make to include power to add to, amend, vary or rescind orders, rules, or bye-laws.

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

21. Where, by any Himachal Pradesh Act, which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, then that power may be exercised at any time after the passing of the Act, but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the Act.

Provisions applicable to making of rules or bye-laws after previous publication.

22. Where, by any Himachal Pradesh Act, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous publication, then, unless such Act, otherwise provides, the following provisions shall apply, namely:—

- (1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Government concerned prescribes;
- (3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- (4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified;
- (5) the publication in the Official Gazette of a rule or bye-law purporting to have been made in the exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation of orders, etc. issued under enactments repealed and re-enacted.

23. Where any Himachal Pradesh Act is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law, made or issued under the repealed Act, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted.

MISCELLANEOUS

Recovery of fines.

24. Sections 63 to 70 of the Indian Penal Code and the provisions of the Code of the Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any Act, rule or bye-law, unless the Act, rule or bye-law contains an express provision to the contrary.

25. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Provision as to offences punishable under two or more enactments.

26. Where any Himachal Pradesh Act authorises or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Meaning of service by post.

27. (1) In any Himachal Pradesh Act, and in any rule, bye-law, instrument or document, made under, or with reference to, any such Act, any enactment may be cited by a reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in any enactment may be cited, by a reference to the section or sub-section of the enactment in which the provision is contained.

Citation of enactments.

(2) In any Himachal Pradesh Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

28. The Punjab General Clauses Act, 1898, as in force in Himachal Pradesh is hereby repealed:

Repeal and savings.

Provided that anything done or action taken thereunder shall be deemed to have been done or taken under the corresponding provision of this Act.

of 1898

STATEMENT OF OBJECTS AND REASONS

There are, at present, two General Clauses Acts, applicable to Himachal Pradesh, one is the Central Act (viz., the General Clauses Act, 1897) and the other is the Punjab Act (viz., the Punjab General Clauses Act, 1898). Neither of these two Acts is applicable so far as the interpretation of the Acts passed by the Himachal Pradesh Legislative Assembly is concerned. The Central Act is available for the interpretation of the Central Acts and the Punjab Act for the interpretation of the Punjab Acts as made applicable to the old Himachal Pradesh or as in force in the areas merged in Himachal Pradesh as a result of the re-organisation of the Punjab. It has been considered necessary to have the General Clauses Act which should be available for the interpretation of all the State Acts whether passed by the Himachal Pradesh Legislative Assembly or of other States made applicable to, or in force in, Himachal Pradesh. By having such an Act, not only the language used in various Acts to be passed by Himachal Pradesh Legislative Assembly will be shortened, but also there will be a sort of uniformity as regards the meanings and interpretation of similar terms and expressions used therein. The work relating to the drafting of Bill will also be facilitated to a great extent. This Bill seeks to achieve the aforesaid object.

SIMLA:
The 18th November, 1968.

KARAM SINGH,
Law Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

THE HIMACHAL PRADESH GIFT GOODS (UNLAWFUL POSSESSION) BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to provide for the punishment of the offence of unlawful possession of gift goods supplied by certain organisations.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Gift Goods (Unlawful Possession) Act, 1968.

Short title,
extent
and comm-
encement.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless there be anything repugnant in the subject or context,—

Definitions

(1) "gift goods" means any of the following goods, namely:—

(a) cornmeal;

(b) milk powder;

(c) vegetable oil (soya bean oil or sunflower seed oil);

(d) rolled wheat;

supplied, by way of gift, by any relief organisation to any State Government or the Government of any Union territory or the Central Government or any other person on behalf of such Government;

(2) "relief organisation" means any organisation specified in the Schedule appended to this Act;

(3) "State Government" means the Government of Himachal Pradesh; and

(4) "notification" means notification published under proper authority in the Rajpatra, Himachal Pradesh.

3. If any person is found, or is proved to have been, in possession of any gift goods reasonably suspected of being stolen or unlawfully obtained and cannot account satisfactorily how he came by the same, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

Unlawful
possession
of gift goods.

4. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall be a cognizable offence within the meaning of that Code.

Offences
under the
Act to be
cognizable.

(2) No Court below that of Magistrate of the First Class shall try an offence under this Act.

5. (1) The State Government may, by notification, add any organisation to, or omit any organisation from, the Schedule, and on the publication of such notification, such organisation shall be deemed to be included in, or as the case may be, omitted from, the Schedule.

Power to
amend
Schedule.

(2) Every notification issued under this section shall be laid, as soon as may be after it is issued, before the Legislative Assembly of Himachal Pradesh while it is in session, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the notification or agrees that the notification should not be issued, the notification shall thereafter have effect only in

such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Repeal and savings.

6. (1) The Punjab Gift Goods (Unlawful Possession) Act, 1963, as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed.

24 of 1963

31 of 1966

(2) Notwithstanding the repeal of the Act under sub-section (1), anything done or any action taken, including any order passed or any notification issued in exercise of the powers conferred by or under the said Act, shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done, taken, passed or issued in exercise of the corresponding powers conferred by or under this Act.

THE SCHEDULE

1. United Nations International Children Emergency Fund (UNICEF).
2. Co-operative for American Relief Everywhere (CARE).

STATEMENT OF OBJECTS AND REASONS

The Punjab Gift Goods (Unlawful Possession) Act, 1963, which provides for the punishment of offences of unlawful possession of gift goods supplied by certain relief organisations, is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. But there is no such law in force in the areas comprised in Himachal Pradesh immediately before the 1st November, 1966. With a view to having uniformity in the matter of such law, it has been considered necessary that Himachal Pradesh should have a unified law of its own on the subject for its entire territory and this Bill seeks to achieve the aforesaid object.

SIMLA:
The 18th November, 1968.

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the State Government to add to, or omit from, the Schedule any organisation, by the issue of notification. Such a notification shall, as soon as may be after it is issued, be laid before the Legislative Assembly.

Bill No. 39 of 1968

**THE HIMACHAL PRADESH GOOD CONDUCT PRISONERS
(TEMPORARY RELEASE) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to provide for the temporary release of prisoners for good conduct on certain conditions.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968.

(2) It extends to the whole of the Union territory of Himachal Pradesh.

(3) It shall come into force on such date as the Government may, by notification, in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

(a) “District Magistrate” means the District Magistrate of the District within whose jurisdiction the prisoner, after his temporary release under this Act, is likely to reside during the period of his release;

(b) “Government” means the Government of Himachal Pradesh;

(c) “member of prisoner’s family” means the husband, wife, son, daughter, father, mother, brother or sister of the prisoner;

(d) “notification” means notification published under proper authority, in the Official Gazette;

(e) “Official Gazette” means the Rajpatra, Himachal Pradesh;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “prisoner” means a person confined in prison under a sentence of imprisonment;

(h) “Superintendent of Jail” means the Superintendent of the jail in which the prisoner is undergoing his sentence of imprisonment.

3. (1) The Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the Government is satisfied that,—

(a) a member of the prisoner’s family has died or is seriously ill; or

(b) the marriage of the prisoner’s son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the prisoner or a member of the prisoner’s family is prepared to help him in this behalf in his absence; or

(d) it is desirable so to do for any other sufficient cause.

(2) The period for which a prisoner may be released shall be determined by the Government so as not to exceed,—

(a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), two weeks;

(b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and

Short title,
extent and
commence-
ment.

Definitions.

Temporary
release of
prisoners
on certain
grounds.

(c) where the prisoner is to be released on the ground specified in clause (c) of sub-section (1), six weeks.

(3) The period of release under this section shall not count towards the total period of the sentence of a prisoner.

(4) The Government may, by notification, authorise any officer to exercise its power under this section in respect of all or any of the grounds specified therein.

Temporary
release of
prisoners on
furlough.

4. (1) The Government or any other officer authorised by it in this behalf may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily, on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than five years, and who,—

(a) has, immediately before the date of his temporary release, undergone imprisonment for a period of three years, excluding remissions; and

(b) has not during such period committed any jail offence and has earned at least three annual good conduct remissions:

Provided that nothing herein shall apply to a prisoner who,—

(i) is a habitual offender as defined in clause (3) of section 2 of the Punjab Habitual Offenders (Control and Reform) Act, 1952; or

(ii) has been convicted of robbery or dacoity or such other offence as the Government may, by notification, specify.

12 of 1952

(2) The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year thereafter.

(3) Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) shall count towards the total period of the sentence of a prisoner.

Exclusion
of certain
days in
computing
period under
sections
3 and 4.

5. For the purpose of calculating the period of temporary release of a prisoner under sections 3 and 4, the days of departure from and arrival at the prison shall be excluded.

Prisoners
not entitled
to be released
in certain
cases.

6. Notwithstanding anything contained in sections 3 and 4, no prisoner shall be entitled to be released under this Act, if, on the report of the District Magistrate, the Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

Journey
expenses of
poor prisoners
to be borne
by the
Government.

7. If, on the report of the District Magistrate, the Government is satisfied that a prisoner's family cannot bear the expenses of his journey from and to the prison after his temporary release under this Act, the expenses may be borne by the Government to such extent and in such manner as may be prescribed.

Liability of
prisoner to
surrender
on expiry
of release
period and
consequences
of over-
staying.

8. (1) On the expiry of the period for which a prisoner is released under this Act, he shall surrender himself to the Superintendent of the jail from which he was released.

(2) If a prisoner does not surrender himself as required by sub-section (1) within a period of ten days from the date on which he should have so surrendered, he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

(3) If a prisoner surrenders himself to the Superintendent of the jail from which he was released within a period of ten days of the date on which he should have so surrendered, but fails to satisfy the Superintendent of the jail that he was prevented by any sufficient cause from surrendering himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall, after affording the prisoner a reasonable opportunity of being heard, be awarded to him by the Superintendent of the jail, namely,—

- (a) a maximum cut of five days' remission for each day of overstay;
- (b) stoppage of canteen concession for a maximum period of one month;
- (c) withholding concession of either interviews or letters or both for a maximum period of three months;
- (d) the period of temporary release on furlough of the prisoner under section 4 shall not be counted towards his sentence;
- (e) warning; and
- (f) reduction from the status and grade of "Convict Watchman" or "Convict Overseer".

9. Any prisoner who is liable to be arrested under sub-section (2) of section 8, shall be punishable with imprisonment of either description which may extend to two years or with fine or with both.

Penalty for failure to surrender.

Explanation.—The punishment in this section is in addition to the punishment awarded to the prisoner for the offence for which he was convicted.

10. (1) The Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) the execution by the prisoner (including his sureties) of bond for his good behaviour during the release period and for his surrender on the expiry of such period;
- (b) the amount for which and the form and manner in which such bonds shall be furnished;
- (c) the forfeiture of the amount of bond in case of breach of any of its terms;
- (d) the conditions on which and the manner in which prisoners may be released temporarily under this Act;
- (e) the manner in which the District Magistrate shall be consulted before a prisoner is released; and
- (f) the extent to which and the manner in which journey expenses of poor prisoners shall be borne by the Government.

(3) All rules under this section, shall, as soon as may be after they are made, be laid before the Legislative Assembly.

11 of 1962

11. The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Repeal and savings.

31 of 1966

Provided that anything done or any action taken under the said Act, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS

The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 which provides for the temporary release of prisoners for good conduct on certain conditions is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. But there is no such law in force in the areas as comprised in Himachal Pradesh immediately before the 1st November, 1966. With a view to bringing about uniformity it is necessary to have one unified law for the whole of Himachal Pradesh, and this Bill seeks to achieve this object.

SIMLA :
The 18th November, 1968.

Y. S. PARMAR,
Chief Minister.

FINANCIAL MEMORANDUM

The journey expenses of poor prisoners, who are to be released on parole/furlough will have to be borne by the State Government on the recommendations of the District Magistrate. Such cases are not likely to exceed ten or so in a full year and expenditure on the journey expenses may not exceed Rs. 200 a year.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 empowers the Government to make rules in respect of the matters mentioned in that clause. These rules shall, as soon as may be after they are made, be laid before the Legislative Assembly.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER
SECTION 23 OF THE GOVERNMENT OF UNION
TERRITORIES ACT, 1963

[Home Department File No. 13-16/67-(Home)]

The Administrator having been informed of the subject matter of the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction in, and consideration by, the Legislative Assembly, of the said Bill.

THE HIMACHAL PRADESH VACCINATION BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to consolidate and amend the law relating to the prohibition of inoculation and to make the primary vaccination and re-vaccination of children compulsory throughout Himachal Pradesh.

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Vaccination Act, 1968. Short title,
extent and
commence-
ment.
- (2) It shall come into force at once.
- (3) It extends to the whole of Himachal Pradesh.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

- (1) "child" means a person who has not attained the age of thirteen years;
- (2) "guardian" means any person to whom the care, nurture or custody of any child falls either by law or by natural right or recognised usage or who has accepted or assumed the care, nurture or custody of any child or to whom the care, nurture or custody of any child has been entrusted by any lawful authority;
- (3) "inoculation" means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter;
- (4) "local area" means an area under the control of a local authority, including a cantonment;
- (5) "notification" means notification published under proper authority in Rajpatra, Himachal Pradesh;
- (6) "prescribed" means prescribed by rules made under this Act;
- (7) "primary vaccination" is the first successful vaccination after birth;
- (8) "re-vaccination" is any subsequent vaccination after primary vaccination;
- (9) "State" means the Union territory of Himachal Pradesh;
- (10) "Government" or "State Government" means the Government of Himachal Pradesh;
- (11) "unprotected child" means a child who has not had small-pox and has not been vaccinated or who has not, within a period of five years, been successfully re-vaccinated;
- (12) "vaccination" means an operation by which sufficient lymph is introduced into the skin and allowed to be absorbed without any interference or exposure to sun for at least fifteen minutes following the operation;
- (13) "vaccination station" means a place where vaccination is performed free of charge by the direction or under the authorisation of the Medical Officer of Health concerned;
- (14) "vaccination circle" means a local area or one of the parts into which a local area has been divided under this Act for the performance of vaccination; and

(15) "Vaccinator" means any person appointed under this Act to perform the operation of vaccination or any private person authorised by the Government to perform the same operation and includes a Superintendent of Vaccination and Inspector of Vaccination and Sanitation.

Prohibition of inoculation and inoculated persons from entering without certificate.

3. Inoculation shall be prohibited throughout the State and no person who has undergone inoculation shall enter the State before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner of such class as the Government may, from time to time, by written order, authorise to grant such certificate, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination circles.

4. A local area may, in the prescribed manner, be divided into a number of vaccination circles.

Vaccinators and Superintendents of Vaccination.

5. (1) One or more Vaccinators shall be appointed with the prescribed qualifications for each vaccination circle, and one or more Superintendents of Vaccination shall be appointed with the prescribed qualifications for each local area.

(2) Each of the officers referred to in sub-section (1) shall be known as a "Public Vaccinator".

Private Vaccinators.

6. The State Government may, by written licence, subject to conditions as prescribed, authorise private Vaccinators to perform vaccination in any vaccination circle, and may suspend or cancel any such licence.

Unprotected child to be vaccinated or re-vaccinated.

7. (1) The guardian of every unprotected child who has not been vaccinated shall procure its primary vaccination before the child attains the age of six months.

(2) Every child before attainment of the age of thirteen years shall be re-vaccinated so that the interval between the primary vaccination and the first re-vaccination and between the two re-vaccinations, and between the last re-vaccination and his attaining the age of thirteen years shall not, in any case, be more than five years.

(3) Whenever the residence of an unprotected child is changed, the guardian of such child shall, within one month of such change of residence, notify the same to the Medical Officer of Health, or any other person authorised by him in this behalf, of the place from which the residence was changed furnishing full particulars as to the new residence of the child.

(4) If a Vaccinator finds that an unprotected child is not in a fit state of health to be vaccinated or re-vaccinated, he shall deliver to the guardian of such child a certificate to the effect that the child is not then in a fit state for vaccination or re-vaccination, as the case may be. Such certificate shall remain in force for the period specified therein, but may be renewed, from time to time, by the Vaccinator if such child continues to be unfit. The reason for the unfitness shall be specified in the certificate.

(5) On the termination of the period of unfitness the guardian of such child shall take the child or cause it to be taken to a Vaccinator to be vaccinated or re-vaccinated, or procure its Vaccination or re-vaccination at his own house by a Vaccinator:

Provided that if the child is still found to be in a state unfit for vaccination or re-vaccination, the certificate granted shall be renewed.

(6) If a Vaccinator finds that an unprotected child is in a state of health fit for vaccination or re-vaccination he shall vaccinate or re-vaccinate such child, and deliver to its guardian a memorandum stating the date on

which the vaccination or re-vaccination was performed, specifying the date, time and place at which the child should be present or be produced, as the case may be, for inspection.

(7) The Medical Officer of Health may at any time cancel any certificate given under this section if he is satisfied that the child was not unfit, and thereupon such certificate shall cease to be valid, and notice of such cancellation shall forthwith be given by him to the guardian of such child.

8. The guardian of every child who has been vaccinated or re-vaccinated shall, on the date, time and place notified as aforesaid, take the child or cause it to be taken to a Vaccinator for inspection or get it inspected at his house by a Vaccinator, and such Vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Inspection
after vacci-
nation.

9. When it is ascertained at the time of inspecting a child that the vaccination or re-vaccination has been successful, a certificate shall be given by a Vaccinator to the guardian to that effect and such child shall be deemed to be protected for a period of five years after the date of vaccination or re-vaccination, as the case may be.

Procedure
when vacci-
nation is
successful.

10. When it is ascertained that the vaccination or re-vaccination has been unsuccessful, the child shall be caused by the guardian to be vaccinated again forthwith, if so desired by the Vaccinator and subsequently inspected as aforesaid:

Procedure
when vacci-
nation is
unsuccess-
ful.

Provided that where the vaccination or re-vaccination has been unsuccessful on three consecutive occasions, the child shall be considered to have natural immunity from small-pox and shall be exempted from vaccination thereafter.

11. Only such vaccine lymph as has been approved by the Director of Health Services, Himachal Pradesh, shall be used for vaccination or re-vaccination.

What vac-
cine lymph
to be used.

12. (1) No fee or remuneration shall be accepted by a Public Vaccinator for any vaccination or re-vaccination performed or for any certificate given under this Act, at the vaccination station:

Vaccination
fee.

Provided that it shall be lawful for a Public Vaccinator to accept the fee prescribed by the State Government for vaccination or re-vaccination performed at the request of the guardian elsewhere than at the vaccination station.

(2) Private Vaccinators may charge the fee prescribed by the State Government for vaccination or re-vaccination.

13. The Superintendent of Vaccination, in addition to other duties imposed on him by or under the provisions of this Act, shall ascertain whether all the unprotected children within the local area have successfully undergone primary vaccination or re-vaccination as heretofore required, and if he has reason to believe that the guardian of any unprotected child has omitted to perform any duty imposed under this Act, he shall serve or cause to be served on the guardian of such child a notice requiring the child to be vaccinated or re-vaccinated or presented for inspection at the time and place to be specified in such notice.

Duties of
Superinten-
dent of
Vaccination.

14. If such notice is not complied with, the Superintendent of Vaccination shall report the matter to the District Magistrate or any other Magistrate authorised by him in this behalf, and the Magistrate receiving such report shall summon the guardian of the child and demand his explanation and shall, if the explanation is not satisfactory, make an order in writing directing

Order by
Magistrate
when notice
under sec-
tion 13 is
not obeyed

the guardian of the child to comply with the notice and produce a certificate of vaccination before the date specified in the order. If the order is not obeyed by such date, the Magistrate shall deal with the disobedience as an offence punishable under section 16 of this Act.

Power to
make rules.

15. (1) The State Government may, by notification, make rules for giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for :—

- (a) the division of a local area into circles for the performance of vaccination;
- (b) the appointment of a place in each vaccination circle as a public vaccination station and the posting of some distinguishing mark in a conspicuous place near the station;
- (c) the qualifications to be required for Vaccinators and Superintendents of Vaccination;
- (d) the authority competent to regulate the appointment, suspension and dismissal of Public Vaccinators and Superintendents of Vaccination;
- (e) the time of attendance of public vaccinators at the vaccination station, and their residence within the limits of the vaccination circle;
- (f) the distinguishing mark or badge to be worn by the Public Vaccinators and Superintendents of Vaccination;
- (g) the conditions of licence granted to Private Vaccinators under section 6, and for the guidance of Vaccinators generally in the performance of their duties;
- (h) the facilities to be afforded to persons for procuring the vaccination of their children at their own houses;
- (i) the grant and form of certificates of successful vaccination and of unfitness for vaccination;
- (j) the nature of the vaccine lymph to be used and the supply of sufficient quantity of such lymph;
- (k) the fee to be paid to a Public Vaccinator for vaccinating a person at a place other than the vaccination station or if such person is a child, at the request of his guardian or the fee to be paid to a Private Vaccinator under section 12;
- (l) the preparation and keeping of registers showing,—
 - (i) the names of unprotected children,
 - (ii) the result of each vaccination or its postponement and the delivery of certificates, if any;
- (m) the assistance to be given by the members of a local authority and its servants in the preparation of these registers and in other matters;
- (n) the preparation of vaccination report and returns; and
- (o) any other matter relating to the implementation of this Act.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of ten days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however,

that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16. Whoever:—

- (a) violates the provisions of section 3;
- (b) does not comply with the provisions of sub-section (3) of section 7;
- (c) neglects, without just excuse, to obey an order made under section 14;
- (d) commits a breach of the rules made under section 15; or
- (e) neglects, without just cause, to obey an order made under section 14 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child;

shall be punishable as follows, namely—

- (i) in the case of the offence mentioned in clause (a), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;
- (ii) in the case of the offences mentioned in clauses (b), (c) and (d), with fine which may extend to fifty rupees; and
- (iii) in the case of the offence mentioned in clause (e), with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Punishment
of offences.

17. The amount of all fees realised, and the amount of all expenditure incurred, under this Act in any local area, shall respectively be credited to, and paid from, the funds of the local authority concerned.

Local
bodies to
receive fees
and meet
expenditure.

18. The enactments mentioned in Schedule to this Act are repealed to the extent specified in the third column thereof with effect from the coming into force of this Act:

Repeal and
savings.

Provided that anything done or any action taken (including any notification, direction, licence or notice issued, rules made and any proceedings commenced or continued) under any of the enactments hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act.

19. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by notification, make such provisions, or give such directions, not being inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty.

Removal of
difficulty.

SCHEDULE
(See section 18)

Number and year 1	Short title 2	Extent of repeal 3
Act 13 of 1880	The Vaccination Act, 1880 as extended to Himachal Pradesh by the Merged State (Laws) Act, 1949 (59 of 1949) and as amended by the Vaccination (Himachal Pradesh Amendment) Act, 1955 (3 of 1956).	The whole.
Act No. 49 of 1953.	The Punjab Vaccination Act, 1953 as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966).	The whole.

STATEMENT OF OBJECTS AND REASONS

As a result of transfer of hilly areas to Himachal Pradesh on the re-organisation of the erstwhile State of Punjab with effect from the 1st November, 1966, there have been in Himachal Pradesh two different laws relating to the prohibition of inoculation and making the primary vaccination and re-vaccination of children compulsory.

The two sets of laws are (i) the Vaccination Act, 1880 as extended to Himachal Pradesh, and (ii) the Punjab Vaccination Act, 1953, as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

With a view to bringing about uniformity it is necessary to have one unified law on the subject for the whole of Himachal Pradesh and this Bill seeks to achieve the object.

SIMLA:
The 18th November, 1968.

LAL CHAND PRARTHI,
Revenue Minister.

FINANCIAL MEMORANDUM

No additional expenditure out of the Government revenue is involved in the working of the Bill as no additional establishment is required to be provided. The staff already engaged under the existing laws will be sufficient for giving effect to the provisions of the Bill.

MEMORANDUM ON DELEGATED LEGISLATION

State Government has been proposed to be vested with the powers to make rules under clause 15 of the Bill in respect of the matters enumerated therein for carrying out the provisions of this Bill. Under clause 19 the State Government has been empowered to provide or give such direction, not inconsistent with the provisions of the Bill, as may appear to it to be necessary or expedient for the removal of any difficulty arising in giving effect to the provisions of this Bill.

Bill No. 41 of 1968

THE HIMACHAL PRADESH PROHIBITION OF SMOKING (SHOW HOUSES) BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to prohibit smoking in Show Houses in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Himachal Pradesh Prohibition of Smoking (Show Houses) Act, 1968.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “auditorium” means that portion of the show houses where accommodation is provided for the public to view the entertainment, cinematographic exhibition, dance, dramatic performance or any other amusement;

(b) “notification” means a notification published under proper authority in the Rajpatra, Himachal Pradesh;

(c) “prohibited period” means so much of the period commencing thirty minutes before the beginning of the entertainment in the show house and ending with the termination thereof;

(d) “show house” means any building or other enclosed and roofed place to which members of public are admitted, whether on payment or otherwise, to witness any entertainment, cinematographic exhibition, dance or dramatic performance or any form of amusement;

(e) “State” means the Union territory of Himachal Pradesh; and

(f) “State Government” means the Government of Himachal Pradesh.

Prohibition
of smoking
in auditor-
rium.

3. No person shall, during the prohibited period, smoke in the auditorium.

Manage-
ment to
post notices
and exhibit
slides.

4. (1) Every person responsible for the management of demonstration or exhibition in a show house shall bring to the notice of the spectators by posting notices prominently and in the case of any cinematographic exhibition also by exhibiting slides that any person smoking in the auditorium during the prohibited period shall be liable to ejection and prosecution.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with fine which may extend for the first offence to fifty rupees and for the second or subsequent offence to two hundred rupees.

Penalty for
smoking in
auditorium.

5. (1) Any Magistrate or any police officer not below the rank of Sub-Inspector or any person specially authorised by notification in this behalf by the State Government may enter the auditorium to satisfy himself that the provisions of this Act are not being contravened and may eject summarily from the auditorium a person who is found smoking in the auditorium during the prohibited period and

who—

- (i) does not desist from smoking when directed by such Magistrate or police officer or the person so authorised not to smoke; or
 - (ii) refuses or fails to declare immediately his name or address when required to do so by the Magistrate or the police officer or the person so authorised; or
 - (iii) is reasonably suspected by the Magistrate, or the police officer or the person so authorised of giving a false name and address;
- and if such person resists such ejection, the Magistrate or the police officer or the person so authorised may arrest such person without a warrant.

(2) Notwithstanding anything contained in sub-section (1), any person who contravenes the provisions of section 3 shall be punishable with fine which may extend for a first offence to twenty-five rupees and for a second or subsequent offence to one hundred rupees.

6. A person ejected under sub-section (1) of section 5 shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation.

Person ejected not entitled to refund or compensation.

7. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of ten days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees in making any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

8. (1) As from the commencement of this Act,—

Repeal and savings.

(a) the Bihar Prohibition of Smoking (Show Houses) Act, 1954, as extended to the areas comprised in the Union territory of Himachal Pradesh immediately before 1st November, 1966; and

(b) the Punjab Prohibition of Smoking (Cinema and Theatre Halls) Act, 1951, as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966;

shall stand repealed:

Provided that anything done or any action taken under any of the said Acts shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act.

30 of 1954.

8 of 1951.

31 of 1966.

STATEMENT OF OBJECTS AND REASONS

At present, there are two Acts in force in Himachal Pradesh relating to the prohibition of smoking in show houses. One of these Acts is "the Bihar Prohibition of Smoking (Show Houses) Act, 1954" as extended to the areas comprised in the Union territory of Himachal Pradesh immediately before 1st November, 1966, and the other is "the Punjab Prohibition of Smoking (Cinema and Theatre Halls) Act, 1951" which is in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity it is necessary to have one unified law on the subject for the whole of Himachal Pradesh and this Bill seeks to achieve the object.

SIMLA:
The 18th November, 1968.

LAL CHAND PRARTHI,
Revenue Minister.

FINANCIAL MEMORANDUM

No expenditure whatsoever out of the Government revenue is involved in the working of the proposed law as no additional establishment is required to be provided for its implementation.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 7 of the Bill empowers the State Government to make rules by notification in the Rajpatra, Himachal Pradesh, for carrying out the provisions of this Act. The rules so made shall be laid before the Legislative Assembly as per provision contained in clause 7 (2).

Bill No. 42 of 1968

**THE HIMACHAL PRADESH URBAN ESTATES
(DEVELOPMENT AND REGULATION) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to enact the law in relation to the development and regulation of Urban Estates in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Urban Estates (Development and Regulation) Act, 1968.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "advertisement" means any word, letter, model, sign, placard, board, notice, device or representation in any manner whatsoever, wholly or in part, intended for the purpose of advertisement, announcement or direction, and includes any structure used or adapted for the display of advertisements;

(b) "amenity" includes roads, water supply, street lighting, drainage, sewerage, public building, horticulture, landscaping and any other public utility service provided in an urban estate;

(c) "building" means any construction or part of a construction which is sold, leased or transferred by the State Government under section 3 and which is intended to be used for residential, commercial, industrial or other purposes, whether in actual use or not, and includes any out-house, stable, cattle shed and garage and also includes any building erected on any land sold, leased or transferred by the State Government under section 3;

(d) "Chief Administrator" means an officer appointed as such by the State Government by notification to perform the functions of the Chief Administrator under this Act, in relation to one or more than one urban estate;

(e) "erect a building" has the same meaning as is assigned to the expression "erect or re-erect any building" in the Punjab Municipal Act, 1911;

(f) "Estate Officer" means a person appointed by the State Government by notification to perform the functions of an Estate Officer under this Act in one or more than one urban estate;

(g) "occupier" means a person, including a firm or other body of individuals, whether incorporated or not, who occupies a site or building, sold, leased or transferred in any manner whatsoever under this Act, and includes his successors and assignees;

(h) "Official Gazette" means the Rajpatra, Himachal Pradesh;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "site" means any land which is transferred by the State Government under section 3;

- (k) "State Government" means the Government of Himachal Pradesh;
- (l) "transfer" includes a sale or lease of a site or building under section 3;
- (m) "transferee" means a person, including a firm or other body of individuals, whether incorporated or not, to whom a site or building is sold, leased or transferred in any manner whatsoever under this Act, and includes his successors and assignees;
- (n) "urban estate" means any area declared to be an urban estate under sub-section (1) of section 3; and
- (o) "workshop" means any building or place in which or within the compound of which any manual labour is employed or utilised in aid of, or incidental to, any process for:—
 - (i) the making of any articles or part thereof;
 - (ii) the altering, repairing, ornamenting or finishing of any articles;
 - (iii) the adapting for sale of any article.

Power of State Government to declare areas as urban estates and in respect of transfer of land and buildings in urban estates.

3. (1) The State Government may, by notification in the Official Gazette, declare any area comprising land belonging to or acquired by the State Government to be an urban estate for the purpose of this Act.

(2) The State Government may sell, lease or otherwise transfer, whether by auction, allotment or otherwise, any land or building belonging to the State Government in an urban estate on such terms and conditions as it may, subject to any rules made under this Act, think fit to impose.

(3) The consideration money for any transfer under sub-section (2) shall be paid to the State Government in such manner, in such instalments and at such rate of interest, as may be prescribed.

(4) The unpaid portion of the consideration money together with interest or any other amount, if any, due to the State Government on account of the transfer of any site or building, under sub-section (2) shall be a first charge on that site or building, as the case may be, and notwithstanding anything contained in any other law for the time being in force, no transferee shall, except with the previous permission in writing of the Estate Officer, be entitled to sell, mortgage or otherwise transfer (except by way of lease from month to month) any right, title or interest in the site or building transferred to him under sub-section (2) until the amount, which is a first charge under this sub-section, has been paid in full to the State Government.

Power to issue direction in respect of erection of buildings.

4. (1) For the purpose of proper planning or development of an urban estate, the State Government or the Chief Administrator may issue such directions, as may be considered necessary in respect of any site or building, either generally for the whole of the urban estate or for any particular locality thereof, regarding any one or more of the following matters, namely:—

- (a) architectural features of the elevation or frontage of any building;
- (b) erection of detached or semi-detached buildings or both and the area of the land appurtenant to such buildings;
- (c) the number of residential buildings which may be erected on any site in any locality;
- (d) prohibition regarding erection of shops, workshops, ware-houses, factories or buildings of a specified architectural character or buildings designed for particular purposes in any locality;
- (e) maintenance of height and position of walls, fences, hedges or any other structural or architectural construction;

(f) restrictions regarding the use of sites for purposes other than erection of buildings.

(2) Every transferee shall comply with the direction issued under sub-section (1) and shall, as expeditiously as possible, erect any building or take such other steps as may be necessary to comply with such directions.

5. (1) No person shall erect or occupy any building in an urban estate in contravention of any building rules made under sub-section (2).

(2) The State Government may, by notification, make rules to regulate the erection of buildings and such rules may provide for all or any of the following matters, namely:—

- (a) the material to be used for external and partition walls, roofs, floors, stair-cases, lifts, fire-places, chimneys and other parts of building and their position or location or the method of construction;
- (b) the height and slope of the roofs and floors of any building which is intended to be used for residential or cooking purposes;
- (c) the ventilation in, or the space to be left out in, any building or part thereof to secure free circulation of air or for the prevention of fire;
- (d) the number and height of the storeys of any building;
- (e) the means to be provided for the ingress or egress to and from any building;
- (f) the minimum dimensions of rooms intended for use as living rooms, sleeping rooms or rooms for the use of cattle;
- (g) the ventilation of rooms, the position and dimensions of rooms, of projections beyond the outer faces of external walls of a building and of doors or windows;
- (h) any other matter in furtherance of the proper regulation of erection, completion and occupation of buildings;
- (i) the certificates necessary and incidental to the submission of building plans, amended plans and completion reports.

Bar to erection of building in contravention of building rules.

6. If it appears to the Chief Administrator that the condition or use of any site or building is prejudicially affecting the proper planning of, or the amenities in, any part of an urban estate or the interests of the general public there, he may serve on the transferee or occupier of that site or building, a notice requiring him to take such steps and within such period as may be specified in the notice and thereafter to maintain it in such a manner as may be specified therein.

Power to require proper maintenance of site or building.

7. (1) For the purpose of providing, maintaining or continuing any amenity in an urban estate, the State Government may levy such fees or taxes as it may consider necessary (which shall be in addition to any fee or tax for the time being leviable under any other law) in respect of any site or building on the transferee or occupier thereof.

Levy of fee or tax for amenities.

(2) If the State Government considers it necessary or expedient so to do, having regard to the fact that the transferee or occupier is a religious or charitable institution or that he does not enjoy the amenity for which any fee or tax is levied, the State Government may, by general or special order, exempt wholly or partly any class of such transferees or occupiers from the payment of fees or taxes levied under sub-section (1).

8. (1) The Chief Administrator may, from time to time, by notification in the Official Gazette, and with the previous approval of the State Government, apply to an urban estate or any part thereof, with such adaptations and modifications not affecting the substance, as may be specified in the

Power to apply certain provisions of Punjab

Municipal
Act, 1911
to an urban
estate.

notification, all or any of the provisions of the Punjab Municipal Act, 1911 specified in the Schedule to this Act, in so far as such provisions are not inconsistent with the provisions of this Act.

3 of 1911

(2) On the issue of a notification under sub-section (1), the Chief Administrator shall, in relation to an urban estate or any part thereof, as the case may be, exercise the same powers and perform the same functions under the provisions applied by such notification as a Municipal Committee or its President or Executive Officer or any other functionary of the Committee would exercise and perform if the urban estate were a municipality of the first class.

(3) While exercising the powers or performing the functions under the provisions of Punjab Municipal Act, 1911 as applied to an estate by a notification in the Official Gazette under sub-section (1), the Chief Administrator shall be subject to the control of the State Government and not to that of the Commissioner or Deputy Commissioner.

3 of 1911

(4) The State Government may, from time to time, by notification in the Official Gazette, omit any provision of the Punjab Municipal Act, 1911 from the schedule or add thereto any other provision of that Act and thereupon the schedule shall be deemed to have been amended accordingly.

3 of 1911

(5) Every notification made under sub-section (1) shall be laid, as soon as may be after it is made, before the Himachal Pradesh Legislative Assembly while it is in session and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees to make any modification in the notification or the House agrees that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Imposition
of penalty
and mode
of recovery
of arrears.

9. (1) Where any transferee makes any default in the payment of any consideration money or instalment thereof or any other amount due on account of the transfer of any site or building under section 3 or of any rent due in respect of any lease, or where any transferee or occupier makes any default in the payment of any fee or tax levied under section 7, the Estate Officer may direct that, in addition to the amount of arrears, a sum not exceeding that amount, to be determined by him shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

(2) In the case of any default in the payment of an amount payable under this Act, the outstanding amount in default, together with any sum, if any, directed to be paid by way of penalty under sub-section (1), may be recovered from the transferee or occupier, as the case may be, in the same manner as an arrear of land revenue.

Forfeiture
for breach
of condi-
tions of
transfer.

10. In the case of non-payment of consideration money or any instalment thereof on account of the transfer of any site or building under section 3 or any rent due in respect of the lease of any such site or building or in case of the breach of any other conditions of such transfer, the Estate Officer may, if he thinks fit, resume the site or building so transferred and may further forfeit the whole or any part of the money, if any, paid in respect thereof.

Appeal and
revision.

11. (1) Any person aggrieved by an order of the Estate Officer made under section 9 or section 10 may, within thirty days of the date of the communication to him of such order, prefer an appeal to the Chief Administrator in such form and manner as may be prescribed:

Provided that the Chief Administrator may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) The Chief Administrator may, after hearing the appeal, confirm, vary or reverse the order appealed from and may pass such order as he deems fit.

(3) The Chief Administrator may, either of his own motion or on an application received in this behalf, at any time, call for the record of any proceedings in which the Estate Officer has passed an order for the purpose of satisfying himself as to the legality or propriety of such order and may pass such order in relation thereto as he thinks fit:

Provided that the Chief Administrator shall not pass an order under this section prejudicial to any person without giving him a reasonable opportunity of being heard.

(4) Where a person is aggrieved by any order of the Chief Administrator, deciding a case under sub-section (2) or sub-section (3), he may, within thirty days of the date of communication to him of such decision, make an application in writing to the State Government for revision against the said decision, and the State Government may confirm, alter or rescind the decision of the Chief Administrator.

12. If it appears to the Chief Administrator that it is necessary or expedient to preserve or plant trees generally or of specified kind in an urban estate, he may, by notification in the Official Gazette, make an order (hereinafter referred to as the Trees Preservation Order) with respect to trees generally or such kind of trees as may be specified in that order, and such order may regulate, restrict or prohibit:—

Preservation and planting of trees.

- (a) the cutting down, topping, lopping or wilful destruction of trees, except with the previous permission of the Chief Administrator; and
- (b) the planting and replanting of any trees or kind of trees in any site or location therein as may be specified in the order.

13. If it appears to the Chief Administrator that it is necessary or expedient to restrict or regulate the display of advertisements in an urban estate, he may, by notification, make an order (hereinafter referred to as the Advertisement Control Order) restricting or regulating the display of advertisements and such order may provide:—

Control of advertisements.

- (a) for regulating the dimensions, appearance and position of advertisements which may be displayed, the sites on which such advertisements may be displayed, and the manner in which they are to be affixed to land or building;
- (b) for requiring the permission of the Chief Administrator to be obtained for the display of advertisements;
- (c) for enabling the Chief Administrator to require the removal of any advertisement which is being displayed in contravention of the order or the discontinuance of the use for the display of advertisements of any site which is being used for that purpose in contravention of the order;
- (d) for fees to be charged for advertisements at places specified in the order.

14. Any person who contravenes the provisions of sub-section (2) of section 4 or section 6 shall, on conviction, be punishable with fine which may extend to five hundred rupees and to a further fine which may extend to twenty rupees for each day during which the offence is proved to have continued after the first day.

Penalty for contravention of directions, etc.

Penalty for
contraven-
tion of
Trees Pre-
servation
Order and
Advertise-
ments
Control
Order.

15. (1) If any person contravenes any provision of the Trees Preservation Order or of the Advertisements Control Order, he shall, on conviction, be punishable with fine which may extend to five hundred rupees and who- ever, after having been convicted of the contravention of any provisions of either of the said Orders, continues to contravene the said provisions, shall, on a subsequent conviction, be punishable with fine as aforesaid and to a further fine which may extend to twenty rupees for each day of continued contravention after the previous date of conviction.

(2) The Court, while passing an order under sub-section (1), may direct that any tree or part thereof or any material used for advertisement, which is the subject of the contravention, shall be forfeited to the State Government or impose a fine of an amount which shall be equivalent to the value thereof.

Penalty for
breach of
rules.

16. Except as otherwise provided for in this Act, any contravention of any of the rules framed thereunder shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention, with an additional fine, which may extend to twenty rupees, for each day during which such contravention continues after the first conviction; and the Court, while passing any sentence, on conviction of any person for the contravention of any rule, may direct that any property or part thereof, in respect of which the rule has been contravened, shall be forfeited to the State Government.

Illustration.—Where an unauthorised structure has been constructed or any obnoxious material or substance is collected or heaped on a site in any unauthorised manner, or where an advertisement board has been set up in contravention of the Advertisements Control Order, such structure, material, substance or board shall be liable to forfeiture, and not the site or building on which the same may be located or fixed:

Provided that if a building is begun, erected or re-erected in contravention of any of the building rules, the Chief Administrator shall be competent to require the building to be altered or demolished by a written notice delivered to the owner thereof within six months of its having begun or having been completed, as the case may be. Such notice shall also specify the period during which such alteration or demolition has to be completed and, if the notice is not complied with, the Chief Administrator shall be competent to demolish the said building at the expense of the owner:

Provided further that the Chief Administrator may, instead of requiring the alteration or demolition of any such building, accept, by way of composition, such sum as he may deem reasonable.

Registra-
tion and
licensing
of architec-
ts, engine-
ers and
plumbers.

17. No architect or engineer, who does not possess the prescribed qualifications, shall be considered as duly qualified and no person other than duly qualified architect or engineer or any plumber shall be competent to certify any plan or completion of a building, or engage in any plumbing work, as the case may be, unless registered and licensed by the Chief Administrator.

Powers of
entry in
buildings
or land.

18. The Chief Administrator may authorise any person, after giving twenty-four hours' notice to the occupier or, if there be no occupier, to the owner of any building or land, at any time between sunrise and sunset—

(a) to enter in and to survey, and to take levels or measurements of any buildings or land, or

(b) to enter into any building or on any land for the purpose of examining works under construction or of ascertaining the course of sewers or drains, or

- (c) to enter into any building or on any land for the purpose of ascertaining whether any building is being, or has been, erected or re-erected without sanction or in contravention of any sanction given under this Act or the rules made thereunder, and to take such measurements and do any other such acts as may be necessary for such purpose.

19. No Court shall take cognizance of any offence punishable under this Act or any rule made thereunder except on the complaint of, or upon information given by, the Chief Administrator or any other person authorised by him in this behalf.

Procedure for prosecution.

20. No order made or direction given by the State Government or any authority in exercise of any power conferred by or under this Act shall be called in question in any Court.

Bar of jurisdiction of Courts.

21. (1) No suit, prosecution or other legal proceeding shall lie against the Chief Administrator, Estate Officer, or any other person acting under their direction in respect of anything which is, in good faith, done or intended to be done in pursuance of this Act or of any rules, directions or orders made thereunder.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the State Government, the Chief Administrator, the Estate Officer or any other person in respect of any damage caused or likely to be caused in pursuance of this Act or any Rules, directions or orders made thereunder.

22. (1) The State Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification.

Delegation.

(2) Save as otherwise provided in this Act, the Chief Administrator may, with the approval of the State Government, by an order in writing, delegate any of his powers and functions under this Act or the rules made thereunder to such other officer subordinate to him as may be specified in such order.

23. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the terms and conditions on which any land or building may be transferred by the State Government under this Act;
- (b) the manner in which consideration money for any transfer may be paid;
- (c) the rate of interest payable, and the procedure for payment of instalments, interest, fees, rents or other dues payable under this Act;
- (d) the terms and conditions under which the transfer of any right, title or interest in any site or building may be permitted;
- (e) erection of any building or the use of any site;
- (f) levy of fees or taxes under section 7;

- (g) the terms and conditions for the breach of which any site or building may be resumed;
- (h) the conditions with regard to the buildings to be erected on sites transferred under this Act;
- (i) the form of notice and the manner in which notices may be served;
- (j) the form and manner in which appeals and applications under this Act may be filed and the fees leviable on such appeals and applications;
- (k) the matters referred to in sub-section (2) of section 5; and
- (l) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Himachal Pradesh while it is in session for a total period of not less than 14 days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

24. The Punjab Estates (Development and Regulation) Act, 1964, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966, is hereby, repealed:

22 of 1964

31 of 1966

Provided that anything done or any action taken, including rules made, notification issued or proceedings commenced or continued under the provisions of the Act hereby repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE SCHEDULE

(See section 8)

Provisions of the Punjab Municipal Act, 1911

Sections 93 to 95, 106, 107, 108, 110 to 112, 121 to 124, 125 to 131, 141 to 150, 151 to 153, 154 to 157, 167 to 168, 173, 188, 197, 197-A, 199, 200, 201, 202, 203, 206, 208, 209, 210, 211, 212, 213, 214 to 223, 224, 225 to 227, 228 to 230, 232, 234, 236, 239 and 240.

STATEMENT OF OBJECTS AND REASONS

The Punjab Urban Estates (Development and Regulation) Act, 1964, the object of which is to regulate the development of Urban Estates, is in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. But there is no such law in force in the areas comprised in Himachal Pradesh immediately before 1-11-1966. With a view to bringing about uniformity, it is intended to have one unified law on the subject for the whole of Himachal Pradesh and this Bill seeks to achieve the object.

SIMLA:
The 18th November, 1968.

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 23 of the Bill empowers the State Government to make rules in respect of the matters enumerated therein. The proposed delegation is normal in character.